PART IV

Section 1-B.

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 985—Legis. 4-52-37, dated Bangalore, 30th August 1952.

Ordered that the Reserve and Auxiliary Air Forces Act, 1952 (Central Act No. LXII of 1952), published in the *Gazette of India*, Part II, Section 1, dated the 22nd August 1952, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

Received Assent on 22nd August 1952.

THE RESERVE AND AUXILIARY AIR FORCES ACT, 1952

(LXII OF 1952).

AN

ACT

to provide for the constitution and regulation of certain Air Force Reserves and also an Auxiliary Air Force and for matters connected therewith.

BE it enacted by Parliament as follows :—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Reserve and Auxiliary Air Forces Act, 1952.

(*2*) It extends to the whole of India.

(3) This Chapter shall come into force at once, and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Air Force Reserve" means any of the Air Force Reserves raised and maintained under this Act;

(b) "competent authority" means an air officer or a committee consisting of two or more air officers appointed under section 3;

(c) "prescribed" means prescribed by rules made under this Act;

(d) all other words and expressions used herein and defined in the Air Force Act, 1950 (XLV of 1950), and not hereinbefore defined shall have the meanings respectively assigned to them by that Act.

3. Appointment of competent authority.—The Central Government may, by notification in the Official Gazette, appoint an air officer or a committee consisting of two or more air officers to perform all or any of the functions of the competent authority under this Act for such area as may be specified in the notification.

CHAPTER II

REGULAR AIR FORCE RESERVE

4. Constitution of Regular Air Force Reserve.—The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Regular Air Force Reserve which shall consist solely of persons transferred or appointed to it under section 5.

5. Recruitment to the Regular Air Force Reserve.—(1) The competent authority may, by general or special order, transfer to the Regular Air Force Reserve—

(a) any officer or airman of the Air Force who under the terms and conditions of his service is liable to serve in any Air Force Reserve if and when constituted;

(b) any officer or airman of the Air Force whose commission or engagement in the Air Force has been terminated before the commencement of this Act and who under the terms of his commission or engagement was liable to serve in any Air Force Reserve if and when constituted;

(c) any officer or airman who has served in the Air Force and has retired therefrom;

and any officer or airman so transferred shall be deemed to be a member of the said Reserve.

(2) The competent authority may, in such circumstances and subject to such conditions as may be prescribed, by special order, appoint to the Regular Air Force Reserve any member of the Air Defence Reserve or the Auxiliary Air Force raised and maintained under this Act, and where any such member is so appointed, he shall cease to be a member of the Air Defence Reserve or the Auxiliary Air Force, as the case may be, and shall as from the date of such appointment be deemed to be a member of the Regular Air Force Reserve.

(3) The competent authority may, for reasons which in its opinion are sufficient, cancel any order made under sub-section (1) or sub-section (2) and on the cancellation of such order the person in respect of whom the order had been made shall cease to be a member of the Regular Air Force Reserve.

6. Classes of persons in the Rugular Air Force Reserve.—Members of the Regular Air Force Reserve shall be divided into the following classes, namely :—

(a) general duties officers,
(b) ground duties officers, and
(c) airmen,

and every officer shall be entitled on transfer or appointment to the Reserve to hold the same rank as that which he last held in the Air Force, or the Air Defence Reserve or the Auxiliary Air Force, as the case may be, before such transfer or appointment.

7. Period of service.—(1) Every member of the Regular Air Force Reserve shall be liable to serve in the Reserve—

(a) if he is transferred to the Reserve under sub-section (1) of section 5, for the period of his Reserve liability ; and

(b) if he is appointed to the Reserve under sub-section (2) of section 5, for the remainder of the period for which he was liable to serve in the Air Defence Reserve or the Auxiliary Air Force, as the case may be :

Provided that the competent authority may require any such member to serve in the Reserve for such further period or periods not exceeding in the aggregate five years as it may think fit.

Explanation I.—For the purposes of this sub-section, "period of Reserve liability" in relation to any member of the Regular Air Force Reserve means the period for which under the terms and conditions of his service in the Air Force he was liable to serve in any Air Force Reserve if and when constituted.

Explanation II.—In computing the period of Reserve liability in relation to any member of the Regular Air Force Reserve whose commission or engagement in the Air Force was terminated before the commencement of this Act, the period which has elapsed between such termination and the date of such commencement shall be included.

(2) Notwithstanding anything contained in sub-section (1), no person shall be liable to serve in the Reserve after attaining the prescribed age.

8. Termination of service in the Reserve.—Every member of the Regular Air Force Reserve shall, on completion of the period of his service therein, cease to be a member of the Reserve.

CHAPTER III

Air Defence Reserve

9. Constitution of Air Defence Reserve.—The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Air Defence Reserve which shall consist of persons deemed under the provisions of section 16 to be enrolled therein.

10. Classes of persons in the Air Defence Reserve.—Members of the Air Defence Reserve shall be divided into the following classes, namely :—

(a) general duties officers;
(b) ground duties officers ; and
(c) airmen.

11. Obligation to register.—(*1*) Every citizen of India who—

(*a*) holds or has held a public transport pilot's licence ("B" Licence) issued under the Indian Aircraft Rules, 1937, or

(*b*) has had not less than two hundred hours' experience of solo flying, including not less than thirty landings, or

(*c*) holds or has held a first class navigator's licence issued under the Indian Aircraft Rules, 1937, or

(*d*) has had at least four years' aviation experience during which at least six hundred hours shall have been spent in the air, not less than one hundred hours of such experience being experience of navigation in the air, or

(*e*) holds or has held a first class radio telegraph operator's licence issued under the Indian Aircraft Rules, 1937, or

(*f*) holds or has held a radio telephone operator's licence issued under the Indian Aircraft Rules, 1937, or

(*g*) holds or has held a licence as ground engineer in any of the categories A, B, C, D or X issued under the Indian Aircraft Rules, 1937, or

(*h*) is or was at ony time employed in connection with any aerodrome or in connection with the control and movement of aircraft, in such capacity as may be prescribed,

shall within the prescribed period correctly fill up, or cause to be filled up, to the best of his knowledge and belief the prescribed form, and sign and lodge it with the competent authority nearest to his usual place of residence or business:

Provided that nothing contained in this sub-section shall apply—

(*i*) to any person belonging to any of the classes specified in clauses (*a*) to (*f*), if he has attained the age of thirty-seven years; or

(*ii*) to any person belonging to any of the classes specified in clauses (*g*) and (*h*), if he has attained the age of fifty years.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), the competent authority may, if it is satisfied that the provisions of that sub-section apply to any person, by order in writing, require that person to furnish within such time such particulars as may be specified in the order and such person shall within the specified time furnish correctly to the best of his knowledge and belief the said particulars to the said authority in such form and manner as may be prescribed.

12. Liability to be called up for inquiry.—Every person to whom the provisions of section 11 are applicable shall be liable to be called up for inquiry under section 13—

(*a*) if he belongs to any of the classes specified in clauses (*a*) to (*f*) of sub-section (*1*) of section 11 until he has completed his thirty-seventh year, and

(*b*) if he belongs to any of the classes specified in clauses (*g*) and (*h*) of the said sub-section, until he has completed his fiftieth year.

13. Calling-up for inquiry.—The competent authority may cause to be served on any person for the time being liable to be called up for inquiry under section 12 a written notice stating that he is called up for inquiry regarding his fitness for service in the Air Defence Reserve and requiring him to present himself to such person and at such place and at such time as may be specified in the notice and to submit himself to inquiry by the said person.

14. Medical examination.—Every person called up for inquiry under section 13 shall, if and when required by the competent authority, present himself for examination before such medical officer as may be directed by that authority and, for the purposes of such examination, shall comply with the directions of the medical officer.

15. Registration of persons considered fit for enrolment.—If, after such inquiry and medical examination as aforesaid, the competent authority considers a person fit for enrolment in the Air Defence Reserve, it shall inform him accordingly and enter his name and other prescribed particulars in a register maintained in such form and manner as may be prescribed.

16. Calling up for service.—The competent authority may cause to be served on any person whose name is entered in the register maintained in pursuance of section 15 a written notice stating that he is called up for service in the Air Defence Reserve and requiring him to present himself at such place and time and to such authority as may be specified in the notice; and the person upon whom the notice is served shall be deemed to be enrolled in the Reserve as from the day so specified.

17. Period of service.—(*1*) Every person deemed to be enrolled in the Air Defence Reserve shall be liable for service—

(*a*) if he belongs to any of the classes specified in clauses (*a*) to (*f*) of sub-section (*1*) of section 11, until he has completed his forty-second year;

(*b*) if he belongs to any of the classes specified in clauses (*g*) and (*h*) of the said sub-section, until he has completed his fifty-fifth year.

(*2*) Every such person, on attaining the age specified in sub-section (*1*), shall cease to be a member of the Air Defence Reserve.

CHAPTER IV.

AUXILIARY AIR FORCE.

18. Constitution of Auxiliary Air Force.—(*1*) The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force to be designated the Auxiliary Air Force.

(*2*) The Central Government may constitute such number of squadrons and units of the Auxiliary Air Force as it thinks fit and may disband or reconstitute any squadron or unit.

19. Classes of persons in the Auxiliary Air Force.—Members of the Auxiliary Air Force shall be divided into the following classes, namely :—

(*a*) general duties officers;
(*b*) ground duties officers; and
(*c*) airmen.

20. Officers of the Auxiliary Air Force.—The President may grant to such person as he thinks fit a commission as an officer in the Auxiliary Air Force with designation of rank corresponding to that of any commissioned officer in the Air Force.

21. Persons eligible for enrolment.—Any citizen of India may offer himself for enrolment in the Auxiliary Air Force and may, if he satisfies the prescribed conditions, be so enrolled on such terms as may be prescribed.

22. Period of service.—Every officer and every enrolled person shall, subject to any rules that may be made in this behalf under this Act, be required to serve in the Auxiliary Air Force for a period of five years from the date of his appointment or enrolment but may, after the completion of his period of service, volunteer to serve therein for further periods each of not more than five years' duration.

23. Termination of service.—The service of any officer or enrolled person in the Auxiliary Air Force may, at any time before the completion of his period of service, be terminated by such authority and under such conditions as may be prescribed.

24. Advisory Committees.—(*1*) The Central Government shall, as soon as may be after the commencement of this Act, constitute—

(*a*) for the whole of India, a Central Advisory Committee;
(*b*) for each State, a State Advisory Committee; and
(*c*) for every unit of the Auxiliary Air Force, a Unit Advisory Committee.

(*2*) It shall be the duty of the Central Advisory Committee to advise the Central Government on matters connected with the Auxiliary Air Force generally, of the State Advisory Committee to advise the Central Government on matters connected with the formation of squadrons or units in the State and squadrons or units already stationed in the State.

(*3*) The duties, powers and procedure of Advisory Committees and in particular the matters in respect of which the Advisory Committees may be called upon to give advice shall be such as may be prescribed.

CHAPTER V.

LIABILITY AND DISCIPLINE OF MEMBERS OF RESERVE AND AUXILIARY AIR FORCES.

25. Liability to be called up for service.—Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of his service, be liable to be called up—

(*a*) for training for such period as may be prescribed and for medical examination,
(*b*) for service in aid of the civil power,
(*c*) for Air Force service in India or abroad.

26. Application of Air Force Act, 1950.—Every member of an Air Force Reserve or the Auxiliary Air Force shall, when called up for training, medical examination or for service under this Act, be subject to the Air Force Act, 1950 (XLV of 1950) and the rules made thereunder in the same manner as a person belonging to the Air Force and holding the same rank is subject to the said Act and rules and shall continue to be so subject until duly released from such training, medical examination or service, as the case may be.

CHAPTER VI.

MISCELLANEOUS.

27. Reinstatement in civil employ of persons required to perform service under this Act.—(1) It shall be the duty of every employer by whom a person called up under section 25 is employed to grant him such leave as may be necessary

and to reinstate him in his employment on the termination of the period during which he has been so called up in occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so called up:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before him and after making such further inquiry into the matter as may be prescribed, pass an order—

(*a*) exempting the employer from the provisions of this section, or

(*b*) requiring him to re-employ such person on such terms as that authority thinks suitable, or

(*c*) requiring him to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he was failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period during which he was called up under section 25.

(4) The duty imposed by sub-section (1) upon an employer to grant leave to a person such as is described in that sub-section or to reinstate him in his employment shall attach to an employer who, before such person is actually called up under section 25, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that person under section 25.

28. Preservation of certain rights of persons called up for service.—When any person called up under section 25 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, during the period for which he has been so called up and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

29. Pay and Allowances.—(1) Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of training or active service, receive such pay and allowances as are admissible to an officer or airman, as the case may be, in the corresponding rank, branch or trade of the Air Force.

(2) Where any such member was in any employment immediately before he is called up for training under section 25, the employer shall, during the period of the

training, be liable to pay to him the difference, if any, between the pay and allowances which he would have received from the employer if he had not been called up for such training and the pay and allowances which he receives as such member while under training.

(3) If any employer refuses or fails to pay to any such member the difference in pay and allowances as provided in sub-section (2), such difference in pay and allowances may, on application by the member to the prescribed authority, be recovered from the employer in such manner as may be prescribed.

30. Penalties.—(1) If any person refuses or without lawful excuse (the burdon of proving which shall lie upon such person) neglects to comply fully with the requirements of sub-section (1) of section 11 or of any order made under sub-section (2) of that section or with the requirements of section 14, he shall be punishable with fine which may extend to five hundred rupees.

(2) If any person wilfully fails to comply with any notice issued under section 13 or section 16, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

31. Service of notice.—Any notice or order to be served on any person for the purposes of this Act may be sent by post to that person at his last known address or may be served upon him in such other manner as may be prescribed.

32. Competent authority to be public servant.—For the purposes of this Act every competent authority and where the competent authority consists of a committee of two or more air officers, every member of the committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

33. Power to Central Government to grant exemptions.—The Central Government may, for special reasons and subject to such conditions as may be prescribed, by order exempt any person from any obligation or liability under this Act or any particular provision thereof.

34. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the composition and strength of any Air Force Reserve ;

(b) the circumstances in which and the conditions subject to which any officer or airman may be transferred or appointed to the Regular Air Force Reserve under section 5 ;

(c) the age beyond which persons shall not be liable to serve in the Regular Air Force Reserve ;

(d) the form and manner in which the particulars required by sub-section (2) of section 11 shall be furnished ;

(e) the form and manner in which registers shall be maintained in pursuance of section 15, the particulars to be entered therein, and the correction or revision of such particulars from time to time ;

(f) the pay or allowances payable to persons called up for inquiry or medical examination under this Act ;

(g) the terms and conditions subject to which a person may be enrolled as a member of the Auxiliary Air Force ;

(*h*) the authority by which and the conditions subject to which the service of any officer or enrolled person in the Auxiliary Air Force may be terminated;

(*i*) the constitution and the duties, powers and procedure of Advisory Committees to be constituted under section 24;

(*j*) the period and manner of training of members of any Air Force Reserve and the Auxiliary Air Force;

(*k*) the manner in which and the conditions subject to which the rank of any member of an Air Force Reserve may be determined;

(*l*) the constitution of the authority for the purpose of section 27 and the manner in which such authority may conduct any inquiry under this Act;

(*m*) the authority to which an application under sub-section (*3*) of section 29 may be made and the manner in which the difference in the pay and allowances may be recovered under that sub-section;

(*n*) the manner in which any notice or order issued or made under this Act may be served;

(*o*) the conditions subject to which any person may be exempted from any obligation or liability under this Act or any particular provision thereof;

(*p*) any other matter which under this Act is to be, or may be, prescribed.

(*3*) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) All rules made under this section shall be laid for not less than seven days before Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

35. Amendment of sections 2, 4 and 31, Act XLV of 1950.—In the Air Force Act, 1950,—

(*i*) in section 2, for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) persons belonging to the Regular Air Force Reserve or the Air Defence Reserve or the Auxiliary Air Force, in the circumstances specified in section 26 of the Reserve and Auxiliary Air Forces Act, 1952";

(*ii*) in section 4, for the words "the Indian Air Force Volunteer Reserve", wherever they occur, the words "any Air Force Reserve or the Auxiliary Air Force" shall be substituted;

(*iii*) in section 31, for the words "the Air Force Reserve" the words "any Air Force Reserve or the Auxilary Air Force" shall be substituted.

36. Repeal of Act XXXVI of 1939.—The Indian Air Force Volunteer Reserve (Discipline) Act, 1939, is hereby repealed.

K. Y. BHANDARKAR,
Secretary to the Government of India.